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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
WPXI, Inc. t/a WPXI-TV Channel 11) MUR 4748
Pamela Spagnol, WPXI-TV)
Robert Morford, WPXI-TV)
Carrie Moniot, WPXI-TV)

GENERAL COUNSEL'S REPORT #2

I. ACTIONS RECOMMENDED

Find reason to believe that Robert Morford violated 2 U.S.C. § 441b, that Carrie Moniot violated 11 C.F.R. § 110.4(b)(iii), and approve the attached proposed factual and legal analyses for them. Enter into pre-probable cause conciliation with WPXI, Inc., Pamela Spagnol, Robert Morford, and Carrie Moniot, and approve the attached proposed joint conciliation agreement.

II. BACKGROUND

On April 13, 1999, the Federal Election Commission ("Commission") found reason to believe that Pamela Spagnol and WPXI, Inc., had violated the Federal Election Campaign Act of 1971, as amended (the "Act"), as a result of various prohibited activity connected with a news story for WPXI. The activity at issue involved the use of corporate funds to reimburse an individual employee of WPXI for contributions she made to five (5) members of Congress in connection with a news story, which resulted in the making of unlawful corporate contributions in the name of another. Specifically, the Commission found reason to believe that Pamela Spagnol violated 2 U.S.C. § 441f, and that WPXI, Inc. violated 2 U.S.C. §§ 441b and 441f, but took no action at that time, with regard to Carrie Moniot, pending the outcome of an investigation into the matter. In addition, on that same date, the Commission determined to open

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an investigation into this matter and sent a Request for Written Interrogatories and a Request for the Production of Documents to WPXI, Inc.

III. ANALYSIS OF RESPONSE AND DISCOVERY REQUESTS

A. Congressional Response News Story

On May 26, 1999, counsel for Respondents submitted a written response and supporting documents to the Commission's Request for Written Interrogatories. Attachment 1. Counsel does not deny that violations of the Act occurred and requests to enter into pre-probable cause conciliation with the Commission in resolution of this matter. In their defense, Respondents contend that they were not aware of laws that prohibited their activity. *Id.*, p. 6.

Counsel for Respondents states that the idea to make contributions to Congressmen in the WPXI viewing area originated from a memo that the station received from NBC headquarters in New York entitled "Dateline Idea Exchange," which listed stories that WPXI could produce and air during the month of November. *Id.*, p. 2. Attached to the memo was a document containing nine local story ideas for NBC affiliate stations that was prepared by an NBC Dateline investigative producer in New York. One of the story ideas was an item titled "Members of Congress may be twice as likely to answer your letter when you enclose a check." *Id.*, p. 22.¹ WPXI News Director, Robert Morford, forwarded the Siegal memo and its attachments to Carrie Moniot, WPXI Executive Producer, Special Projects Unit. According to counsel,

¹ The concept for the news story apparently originated from a newspaper article that appeared in the *New York Daily News* on September 5, 1995, entitled "'Enclosed is a Contribution' Want Action In D.C.? Don't Forget the Check." *Id.*, p. 24-26. According to the article, the newspaper conducted a "unprecedented news sting" report whereby 14 members of Congress from the state of New York were sent letters to test their responsiveness to their constituency. Two letters were sent to each member of Congress asking for information about federal programs; one set of letters contained a cover letter and a contribution for \$50, while the other set of letters contained only a letter. The article concluded that "members of [New York City's] congressional delegation are far more likely to respond to a constituent's request for assistance if it's accompanied by a campaign contribution." *New York Daily News*, Sept. 5, 1995, pg. 7. *Id.*, p. 24. Unlike the present case, the *New York Daily News* article does not explicitly state that the contributions were reimbursed, nor was there ever a complaint filed with the Commission about it.

Mr. Morford is the WPXI New Director and is responsible for all news operations there. In his capacity as News Director, Mr. Morford had the final authority to decide whether the news story would be pursued. *Id.*, p. 4.

In January of 1998, at the regular WPXI news department staff meeting, the idea for the story at issue here was approved with both Mr. Morford and Ms. Moniot in attendance at the meeting. *Id.*, p. 3. As a result of the decision to pursue the story, Ms. Moniot drafted and approved two (2) sets of the letters that were to be sent to the five (5) Congressmen whose districts were in the WPXI viewing area (western Pennsylvania). The Congressmen were Rep. William L. Coyne (PA-14), Rep. Mike Doyle (PA-18), Rep. Philip S. English (PA-21), Rep. Ron Klink (PA-4), and Rep. Frank R. Mascara (PA-20). *Id.*, p. 32-36. Ms. Moniot then proceeded to ask two WPXI employees to use their names and home addresses for the letters to the Congressmen so that it would appear that the letters and contributions were from constituents. Mr. Jim Chiappelli, WPXI Morning Executive Producer, signed and used his home address for the letters that did not contain a contribution. Ms. Spagnol also agreed to participate and eventually wrote five (5) \$50 checks from her personal checking account to each of the Congressmen, signed her name to the letters and included her home address as the return address for the set of letters that contained the \$50 contributions. *Id.*, p. 6-7 and 32-36.

Ms. Spagnol followed WPXI's usual operating procedure for requesting advances and reimbursements for news story related expenses. According to the documents submitted by counsel, on February 11, 1998, Ms. Spagnol submitted a WPXI-TV/COX Broadcasting Corp. Check Request Form to the accounting department requesting \$250 for the purpose of "Campaign Contributions to PA Representatives for I-Team Story." *Id.*, p. 37. Mr. Morford signed off on the request form which approved the disbursement of WPXI funds. *Id.* Two days

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later, Ms. Spagnol received a \$250 check from WPXI for the story. Then on March 2, 1998, Ms. Spagnol wrote five (5) \$50 contribution checks from her personal checking account, and sent them along with the letters prepared by Ms. Moniot.² *Id.*, p. 49-50. After the checks were mailed, Ms. Spagnol submitted an expense voucher form to the WPXI Accounting Department to show that she did in fact use the \$250 for the intended purpose. *Id.*, p. 38.

Sometime thereafter, between March 16 and 30, 1998, Ms. Spagnol received initial responses from four of the five candidates. Three of these candidates, Rep. Klink, Rep. English and Rep. Doyle, accepted and deposited her contributions. Rep. Mascara returned Ms. Spagnol's check uncashed because she did not live in his Congressional district.³ Ms. Moniot monitored the responses that were received by Ms. Spagnol and Mr. Chiappelli. After receiving the responses, sometime in early April 1998, WPXI news reporter Alan Jennings contacted Rep. Mascara and Rep. English's offices to arrange interviews in connection with the story, and Ms. Moniot contacted the offices of Rep. Klink and Rep. Doyle in order to arrange interviews concerning their responses. *Id.*, p. 9.

According to counsel for Respondents, on or about April 20, 1998, Mr. Jennings interviewed Reps. Mascara and English and inquired about their procedures for responding to constituent mail, and about the letter from Ms. Spagnol, in particular. *Id.* Soon thereafter, Ms. Moniot spoke to personnel from Reps. Klink and Doyle's office to set up interviews with the Congressmen, but was declined. Subsequent to those conversations, Ms. Spagnol received a letter from Rep. Klink's office, dated May 6, 1998, returning her \$50 contribution because

² Although the letters were dated February 24, 1998, respondents indicate that the letters were not mailed to the recipients until March 3, 1998. *Id.*, p. 6 and 32-36.

³ The contribution to Rep. Coyne was never cashed and Ms. Spagnol subsequently put a stop payment on the check for which WPXI later reimbursed her the \$25 fee. Mr. Morford signed off on this request, and Ms. Spagnol was subsequently reimbursed by WPXI. *Id.*, p. 41-42.

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questions has arisen regarding the source of her donation. *Id.*, p. 10. Similarly, on May 9, 1998, Ms. Spagnol received a letter from Rep. Doyle's office returning her \$50 contribution because of questions regarding the source of her donation. *Id.*, p. 11. Later, on June 3, 1998, Ms. Spagnol sent letters to the offices of Reps. English and Coyne notifying them that her contribution to them was in connection with a news story for WPXI and that her actions may be in violation of federal campaign laws. *Id.* In response to her letter, both Reps. English and Doyle refunded the contributions.

B. The Roles of Robert Morford and Carrie Moniot

1. Robert Morford

It is clear from the above that WPXI made corporate contributions in the name of another totaling \$250 to five Federal candidates in connection with a news story that it conducted in 1998, in violation of 2 U.S.C. §§ 441b and 441f. Similarly, Ms. Spagnol clearly violated 2 U.S.C. § 441f by allowing her name to be used to make these contributions. Moreover, based on counsel's response, it appears that Mr. Morford also violated the Act for consenting to the use of WPXI's funds for the purpose of making contributions to Federal candidate committees in connection with a new story.

Pursuant to 2 U.S.C. § 441b it is unlawful for any corporation to make a contribution or expenditure in connection with any election to any political office, or for any officer or director of any corporation to consent to any contribution or expenditure by the corporation.

According to counsel, Mr. Morford as the News Director for WPXI-TV, had the final authority to decide whether the story would be pursued by WPXI and the authority to authorize the use of WPXI funds to cover any expenses incurred by staff in connection with the news story. Mr. Morford attended the staff meeting where the decision to pursue the story was made and he

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signed off on Ms. Spagnol's requests for reimbursement by WPXI for the contributions she made to the five Federal candidate committees, and the other expenses she incurred in connection with the news story. Therefore, there is reason to believe that Robert Morford violated 2 U.S.C. § 441b for consenting to the use of corporate funds for the making of contributions to five Federal candidate committees.

2. Carrie Moniot

Ms. Moniot also played a role in effectuating the prohibited activity. She assisted in the making of contributions in the name of another by drafting the letters to be sent by Ms. Spagnol and asking her to act as a front for contributions to five Federal candidates for the news story.

Pursuant to 2 U.S.C. § 441f no person shall make a contribution in the name of another or knowingly permit his or her name to be used to effect such a contribution. The Commission's regulations also state that no person shall knowingly help or assist any person in making a contribution in the name of another. 11 C.F.R. § 110.4(b)(iii).

According to counsel for Respondents, Ms. Moniot, as Executive Producer for the WPXI Special Projects Unit, chose the Congressional response story idea from the Dateline Idea Exchange memo to present to other WPXI news staff members for their approval at the regular January 1998 staff meeting.⁴ She drafted the letters that were to be sent to the five Congressmen and she asked WPXI staff to participate in the plan. She monitored the responses that Ms. Spagnol and Mr. Chiappelli received and tried to set up interviews with the candidates to discuss their responses. *Id.*, p. 14. Although Ms. Moniot did not have the ultimate authority to authorize whether WPXI would pursue the Congressional response story, and she is not an

⁴ Ms. Moniot contends that once she received a faxed copy of the New York Daily News article, she attempted to contact the reporter who wrote it in order to gain insight on how the he had prepared the story, but he never returned her phone call. *Id.*, p. 4.

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officer or director of WPXI, it appears that she did actively participate in the decision making process to pursue the story in her capacity as Executive Producer for WPXI Special Projects Unit and initiated the entire sequence of events.⁵ *Id.*, p. 4. Therefore, this Office recommends that the Commission find reason to believe that Carrie Moniot violated 11 C.F.R. § 110.4(b)(iii).

IV. DISCUSSION OF CONCILIATION AND PROPOSED CIVIL PENALTY

This Office recommends that the Commission enter into pre-probable cause conciliation with WPXI, Inc., Pamela Spagnol, Robert Morford, and Carrie Moniot. Attached is a proposed joint conciliation agreement

V. RECOMMENDATIONS

1. Find reason to believe that Robert Morford violated 2 U.S.C. § 441b.
2. Find reason to believe that Carrie Moniot violated 11 C.F.R. § 110.4(b)(iii).
3. Enter into pre-probable cause conciliation with WPXI, Inc., Pamela Spagnol, Robert Morford and Carrie Moniot.
4. Approve the attached proposed factual and legal analyses for Robert Morford and Carrie Moniot.
5. Approve the attached proposed conciliation agreement.


⁵ In response to one of the Commission's interrogatories, counsel notes that officially, the WPXI News Director, Mr. Morford, had the final authority to decide whether WPXI should pursue any particular news story. *Id.*, p. 5 and 16.

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6. Send the appropriate letters.

Lawrence M. Noble
General Counsel

5/5/00
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments:

1. Response, dated May 26, 1999
2. Proposed Factual and Legal Analyses (2)
3. Proposed Conciliation Agreement

Staff Assigned: Tamara K. Kapper

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FEDERAL ELECTION COMMISSION

Washington, DC 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel ~~SOX~~

DATE: May 5, 2000

SUBJECT: MUR 4748- General Counsel's Report #2

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS

SENSITIVE

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NON-SENSITIVE

☐

72 Hour TALLY VOTE ☒

24 Hour TALLY VOTE ☐

24 Hour NO OBJECTION ☐

INFORMATION ☐

DISTRIBUTION

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☒

Open/Closed Letters ☐

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AUDIT MATTERS ☐

LITIGATION ☐

ADVISORY OPINIONS ☐

REGULATIONS ☐

OTHER ☐

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FEDERAL ELECTION COMMISSION

Washington, DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARY W. DOVE/VENESHE FEREBEE-VINES
COMMISSION SECRETARY

DATE: MAY 11, 2000

SUBJECT: MUR 4748 - General Counsel's Report #2.
dated May 5, 2000.

VFW

The above-captioned document was circulated to the Commission
on Monday, May 08, 2000.

Objection(s) have been received from the Commissioner(s) as
indicated by the name(s) checked below:

Commissioner Elliott	—
Commissioner Mason	—
Commissioner McDonald	—
Commissioner Sandstrom	<u>XXX</u>
Commissioner Thomas	—
Commissioner Wold	—

This matter will be placed on the meeting agenda for Tuesday,

May 23, 2000. Please notify us who will represent your Division before the
Commission on this matter.

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